

FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Sammy Lee Pendleton,	:	
Petitioner	:	Civil Case No. 2:09-cv-00028
v.	:	Judge Smith
United States of America,	:	Magistrate Judge Abel
Respondent	:	

Order

This is one of a series of actions plaintiff Sammy Lee Pendleton, a federal prisoner, has filed alleging that he is unlawfully held in prison. He styled this action a prisoner civil rights suit under 42 U.S.C. § 1983. This matter is before the Court on Pendleton's March 20, 2009 objections (doc. 12) to Magistrate Judge Abel's February 2, 2009 Report and Recommendation on initial screening under 28 U.S.C. §1915A(a) and (b) and 42 U.S.C. §1997e(c) that the complaint be dismissed for failure to state a claim (doc. 5).

Upon *de novo* review as required by 28 U.S.C. § 636(b)(1)(B), the Court OVERRULES plaintiff's objections and ADOPTS the Report and Recommendation.

Pendleton has been determined by Judge James L. Graham to be incompetent to stand trial for bank robbery. 18 U.S.C. § 4241(b). He wants out of prison. His remedy is through the criminal case. Judge Graham is now in the process of determining

whether Pendleton should be released from custody or must be held longer. 18 U.S.C. § 4246(a). *United States v. Samuel Lee Pendleton*, 2:07-cr-181 (S.D. Ohio)(doc. 34). That is his sole remedy at this time.

The Clerk of Court is DIRECTED to enter JUDGMENT dismissing the complaint for failure to state a claim for relief under 42 U.S.C. § 1983.

s/ George C. Smith
George C. Smith
United States District Judge